

## Franchise Tax Board

## ANALYSIS OF ORIGINAL BILL

Author: Shelley/Kuehl Analyst: Gloria McConnell Bill Number: AB 1358  
Related Bills: See Legislative History Telephone: 845-4336 Amended Date: 04/03/00  
Attorney: Patrick Kusiak Sponsor: DCSS

**SUBJECT:** Child support Enforcement

SUMMARY

This bill, in general, makes numerous technical changes to various California Codes relating to child support enforcement. The changes are necessary to accommodate California's new child support enforcement organizational structure enacted last year, effective on January 1, 2000. For the most part, this bill replaces the references to "district attorney" (DA) with "local child support agency" (local agency) and "Department of Social Services" (DSS) with "Department of Child Support Services" (DCSS), the successor agency and department, respectively).

Additionally, this bill corrects certain provisions where the new organizational structure and related references inadvertently eliminated the authority for the DA, local agency or the DCSS to conduct the child support activities, as intended, within these organizational structures.

EFFECTIVE DATE

This bill would be effective and operative on January 1, 2001.

LEGISLATIVE HISTORY

AB 196, as amended by SB 542 (Stats. 99, Chs. 478 and 480, respectively), created the DCSS to replace the DSS as California's Title IV-D agency. In addition, these bills transferred from the DAs to the local agencies, the child support case management enforcement activities. The transfer from the DAs to the local child support agencies is to be phased-in over a two-year period, beginning January 1, 2001, and to be completed by January 1, 2003. The Franchise Tax Board (FTB) was given the responsibility for accounts receivable management enforcement activities, which generally includes collection of child support delinquencies. The DAs retained certain responsibilities relating to judicial proceedings and related activities, including fraud investigations.

SPECIFIC FINDINGS

Under current law, several provisions require the disclosure of information for child support enforcement purposes:

- Family Code Section 17505 requires all state agencies, which includes the FTB, to supply the local child support agency or California Parent Locator Service (CPLS) with information relative to the location, income and assets of the noncustodial parent.

## Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
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## Department Director

## Date

Alan Hunter for G.H.G.

6/1/00

- Government Code Section 15703 requires the FTB to give DAs certain information from tax records.

Under current practice, FTB typically receives these information requests through the CPLS. In addition, Family Code Section 17506 requires the CPLS to collect income tax return information from FTB.

Under current law:

- Section 19548 of the Revenue and Taxation Code (RTC) expressly authorizes FTB to disclose tax information to the CPLS upon its request. Unless authorized under Article 2 of Chapter 7 of Part 10.2 of the RTC, of which Section 19548 is a part, it is a misdemeanor pursuant to RTC Section 19542 for employees of FTB to disclose tax information.
- RTC Section 19274 allows DAs to refer accounts for social security number (SSN) searches of noncustodial parents. RTC Section 19271.6 requires counties to compile a file of obligors for the financial institution match and sets forth criteria based on when the DA received a case.
- RTC Section 19275 provides "transitional umbrella language." Under this provision, any reference to DA or counties as it relates to child support collection, enforcement or accounts receivable management means the local child support agency, in keeping with the changes and transition of authority and responsibilities as required under the Family Code.

Under this bill:

- "district attorney" is replaced with "local agency." Therefore, the FTB would be required to give the local child support agency rather than the DAs the tax record information required by the Section 15703 of the Government Code. In addition, the local agency rather than the DAs would refer accounts to FTB for SSN searches under RTC Section 19274, and local agencies rather than counties would compile the files for the financial institution data match under RTC Section 19271.6.
- FTB, as a state agency, would be required to disclose to certain governmental investigators all information on individuals who receive or apply to receive aid under the California Work Opportunity and Responsibility to Kids Act. The information required to be disclosed would include the identity of the person, location, income, and property; however, there would be no express statutory authority in RTC Chapter 7, Article 2 to make such disclosures.

#### Implementation Considerations

The transition of all responsibilities and authorities from DAs to local child support agencies will not be completed for more than two years. By replacing "DAs" with "local agency" before the transition is completed, it is unclear whether the bill would be prematurely removing all of the DAs' authority and responsibility to perform their case management duties during the transitional period. This issue has been discussed with the sponsor's counsel.

To avoid this potential problem, the sponsor's counsel agreed the Act should carry language that would expressly allow a DA to act on behalf of the local agencies until the transition for that DA is completed. In addition, the replacement of "district attorney" with "local agency" makes the RTC Section 19275 "transitional umbrella language" ineffective. The attached Amendment 1 would allow the DAs' authorities and responsibilities referred to under the laws administered by FTB to continue until transitioned to the local agency.

In addition, if FTB were to be required to cooperate with an investigator under Section 11484 of the Welfare and Institutions Code (WIC) by disclosing tax return information, without adding the expressed authority under Article 2 of Chapter 7 of Part 10.2 of the RTC, this bill would be subjecting staff to a misdemeanor violation. According to the sponsor's staff, it was not anticipated that investigators would be seeking tax return information from FTB under this WIC provision. Therefore, the attached Amendment 2 would clarify that FTB would not be subject to this WIC requirement to cooperate in the disclosure of information.

If it is subsequently found that the FTB would be expected to disclose tax return information to an investigator under this WIC provision, the expressed authority for FTB to disclose this information should be added to Article 2 of Chapter 7 of Part 10.2 of the RTC. In addition, if it is subsequently found that the FTB would be required under current practice to disclose tax return information to local agencies directly instead of the CPLS, the expressed authority for FTB to make that disclosure should be added to Article 2 of Chapter 7 of Part 10.2 of the RTC.

#### Technical Considerations

Page 8 of this bill, lines 14 and 15, makes reference to "subdivision (c)." However, "subdivision (c)" is eliminated by this bill, as amended.

#### FISCAL IMPACT

Assuming the "Implementation Considerations" are resolved, this bill would not affect FTB's departmental costs or collections of child support delinquencies.

#### BOARD POSITION

Pending.

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FRANCHISE TAX BOARD'S  
PROPOSED AMENDMENTS TO AB 1358  
As Amended April 3, 2000

AMENDMENT 1

On page 129, line 17 after "115." insert:

Section 19275 of the Revenue and Taxation Code is amended to read:

19275. For purposes of Parts 10 (commencing with Section 17001), 10.5 (commencing with Section 20501), ~~and 11 (commencing with Section 23001), and this part, any reference to the district attorney or counties, the State Department of Social Services, or the Statewide Automated Child Support System, a local child support agency as it relates to the collection, enforcement, or accounts receivable management of child support under the Family Code or the Welfare and Institutions Code shall mean the local child support agency, the Department of Child Support Services, and the California Child Support Automation System, respectively,~~ district attorney of that county where the local child support agency is located until the authorities and responsibilities are transferred from that district attorney of that county to the local child support agency of that same county, in keeping with the changes and transition of authority and responsibilities as required under Section 17305 of the Family Code ~~and the Welfare and Institutions Code.~~

SEC. 116.

NOTE TO LEG. COUNSEL: Please renumber remaining Sections of the bill.

AMENDMENT 2

On page 147, line 14, after "2." insert:

For purposes of this section "information" shall not include taxpayer return information as defined in Section 19549 of the Revenue and Taxation Code, unless disclosure of this information is expressly authorized pursuant to Article 2 of Chapter 7 of Part 10.2 of the Revenue and Taxation Code.